

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Abellard, Greg (b) County of Residence of First Listed Plaintiff <u>Philadelphia County, PA</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small> (c) Attorneys (Firm Name, Address, and Telephone Number) Hopkins and Schafkopf - 11 Bala Ave, Bala Cynwyd, PA 19004 610-664-5200 ext 104 - Gary Schafkopf	DEFENDANTS Pillar Hotels and Resorts, LLC. Residence Inn Deptford John Does 1-10 County of Residence of First Listed Defendant <u>Dallas County, TX</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small> <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</small> Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)					
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	PTF	DEF	PTF	DEF		
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
		Citizen of Another State	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

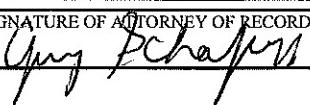
IV. NATURE OF SUIT (Place an "X" in One Box Only)						Click here for: Nature of Suit Code Descriptions.					
CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES			
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act						
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	FEDERAL TAX SUITS	<input type="checkbox"/> 376 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))					
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes					

V. ORIGIN (Place an "X" in One Box Only)	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>5 USC 1201</u>					
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VI. CAUSE OF ACTION	Brief description of cause: <u>Wrongful Termination, Violation of Federal Whistleblower Protection</u>					
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VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ 75,000.00	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
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VIII. RELATED CASE(S) IF ANY	(See instructions):	JUDGE	DOCKET NUMBER				
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DATE <u>12-16-16</u>	SIGNATURE OF ATTORNEY OF RECORD 					
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FOR OFFICE USE ONLY RECEIPT # _____	AMOUNT _____	APPLYING IFFP _____	JUDGE _____	MAG. JUDGE _____
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WEISBERG LAW
Matthew B. Weisberg, Attorney ID No. 85570
7 South Morton Ave.
Morton, PA
610-690-0801
Fax: 610-690-0880
Attorney for Plaintiff

Hopkins & Schafkopf, LLC
Gary Schafkopf, Attorney ID No. 83362
11 Bala Ave
Bala Cynwyd, PA 19004
610-664-5200 Ext 104
Fax: 888-238-1334
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

GREG ABELLARD

419 Tyson Ave. Philadelphia, PA 19111

Plaintiff,

v.

No.

JURY TRIAL DEMANDED

**PILLAR HOTELS AND RESORTS,
LLC. D/B/A RESIDENCE INN
DEPTFORD**
1999 Bryan St.
Ste. 900
Dallas, TX 75201-3136

CIVIL ACTION COMPLAINT

and

RESIDENCE INN DEPTFORD
1154 Hurfville Road
Deptford Township, NJ 08096

and

JOHN DOES 1-10

Defendants.

CIVIL ACTION

PARTIES

1. Plaintiff Greg Abellard is an individual residing at 419 Tyson Avenue in Philadelphia, Pennsylvania 19111. Plaintiff is a citizen of Pennsylvania.
2. Defendant Pillar Hotels and Resorts, LLC is a business corporation engaged in hospitality and hotel management, which owns and operates Defendant, Residence

Inn Deptford. Their place of incorporation is Texas, where their headquarters is located at 5851 Legacy Circle, Suite 400 in Plano, Texas 75024. Defendants are citizens of Texas.

3. Defendant Residence Inn Deptford, is a trademark used by Defendant Pillar Hotels, and is operated as a business under New Jersey Law. It is part of Defendant Pillar Hotels and Resorts, LLC is a business corporation engaged in hospitality and hotel management, which owns and operates Defendant, Residence Inn Deptford. Their place of incorporation is Texas, where their headquarters is located at 5851 Legacy Circle, Suite 400 in Plano, Texas 75024. Defendants are citizens of Texas.
4. Defendants, John Does 1-10, is a moniker/fictitious name for individuals and entities currently unknown but will be substituted when known, as affiliated, associated or liable hereunder for the reasons set forth below or inferred there from. Each of these parties are incorporated as Defendants in each and every count and averment listed above and below, Upon information and belief, Defendants, John Does, were agents, servants, workmen, or employees of Co-Defendants, liable to Plaintiffs hereunder.

JURISDICTION AND VENUE

5. Venue is proper in the in The United States District Court for New Jersey because this is where the transactions and occurrences that give rise to the cause of action have taken place.
6. The amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00, and jurisdiction of this Honorable Court is based on diversity of citizenship. 28 U.S.C. § 1332.

FACTS

7. On or about September 14, 2015, Defendant Pillar Hotels and Resorts hired Plaintiff Greg Abellard as an Assistant General Manager to work at Residence Inn Deptford, in Deptford, NJ.
8. Plaintiff was hired at a salary of \$46,000 with an option of a 25% bonus based on upon performance. Plaintiff worked 50 hours a week.
9. Plaintiff was trained both by Defendant, his superior, Defendant, John Doe, Angela Durant, General Manager of Residence Inn, and his Area Manager, Defendant, John Doe, Katie Myers and Defendants, John Does.
10. Plaintiff was given access to, and responsible for accounting for daily cash transactions, and was responsible for auditing the petty cash transactions for Residence Inn.
11. Shortly after he began, Plaintiff began to notice discrepancies in the cash transactions. He approached Durant, and learned that she had used the petty cash to purchase personal belongings and groceries. She asked him, and a colleague, Defendant John Doe to try and make up the difference in the petty cash from the on-site laundry.
12. There were several days where Durant was unable to submit daily cash deposits, because of the missing petty cash.
13. Plaintiff spoke with Durant on several occasions regarding the missing petty cash, and at times Durant appeared very shaken about the accusations. In order to try to cover up the missing petty cash, she attempted to submit older receipts in an attempt at reimbursement from corporate to cover the losses. These receipts went back to March 2015, before Abellard was hired. Many of these receipts were for personal

belongings purchased by Durant, who attempted to claim them as purchases for the hotel.

14. In October 2015, Plaintiff noticed that \$1,600 was absent from the petty cash drawer.
15. When Plaintiff reported this to the General Manager, Angela Durant, of Defendant Pillar Hotels. Durant told Plaintiff to alter cash audit logs in order to make it appear that the money was not missing.
16. Fearful of losing his new job, Plaintiff Abellard complied with the order.
17. This reference was incorporated on the monthly cash audit log for the month of September.
18. In the following month of October 2015, Plaintiff, concerned with the cash discrepancy, purposefully removed himself from all cash transactions within the hotel.
19. However, his job continued to require Plaintiff to submit Cash Audits. Plaintiff filed the cash audits at the direction of his superior Durant, but all of the figures in the report were created by Durant to make it appear there was no petty cash missing.
20. In February 2016, the Residence Inn Deptford has its cash logs audited by Defendant's accounting department. The missing \$1,600 from September was discovered.
21. An investigation was then commenced by the Regional Manager of Operations, Defendant John Doe, Stacie MacDonald, and Defendants John Does. Plaintiff Abellard reported that Angela Durant took the money, and then asked him to cover it up in the cash audit for the month of September.

22. Human Resources for Defendant Pillar Hotels conducted their own investigation into the matter, and after two (2) weeks, Plaintiff Abellard was deemed not responsible for the missing money.
23. During a phone conversation with Stacie MacDonald, and Defendants John Does, Plaintiff Abellard was informed that he would most likely be provided with a written warning for his compliance in auditing the logs against the policy of Defendant Pillar Hotels. Plaintiff attempted to discuss the matter with MacDonald via e-mail, but MacDonald insisted on only conducting these conversations via phone.
24. Even though Plaintiff Abellard was initially found to be not responsible for the loss of the money, instead of a written warning, Defendant Pillar Hotels terminated Plaintiff. Angela Durant, General Manager, who ordered the logs to be audited, was given a final written warning in the matter.
25. Following his termination, Plaintiff applied for, and received unemployment benefits, as the case worker on his case could find that Defendant Pillar Hotels could not prove that he had done anything wrong.
26. In August of 2016, Plaintiff applied for a General Manager position at the Fairfield Inn, in Mount Laurel, New Jersey. Plaintiff sought this position based upon a recommendation from a previous supervisor from New York. A full offer, with a start date was made, and two days prior to the Plaintiff's start date, the offer rescinded. Plaintiff learned that the Regional Manager had spoken with Durant, who had strongly discouraged the hiring of the Plaintiff.

COUNT I - WRONGFUL TERMINATION

27. The foregoing paragraphs are fully incorporated herein as though set forth at length.

28. Defendant breached their contract with Plaintiff by the following acts and omissions:

- a. Terminated the employment of Plaintiff without just cause;
- b. Terminated the employment based on false facts and missing relevant information;
- c. Failed to adequately investigate the facts and circumstances prior to terminating the employment of Plaintiff;
- d. Failed to allow Plaintiff to adequately address the false facts and allegations, which were the alleged basis for the termination of Plaintiff's employment;
- e. Terminated the employment of Plaintiff.

29. Plaintiff's direct superiors, engaged in tactics that presented him as the party at fault when others identified as such were protected and thus, caused him to be terminated without justification.

30. Plaintiff has further suffered and will continue to suffer a loss of earnings, and other employment benefits, whereby Plaintiff is entitled to general compensatory damages.

COUNT II – VIOLATION OF FEDERAL AND STATE WHISTLEBLOWER PROTECTION

31. The foregoing paragraphs are fully incorporated herein as though set forth at length.

32. Plaintiff was terminated from his position of employment for informing his supervisor of violations and theft by his General Manager.

33. Plaintiff has further suffered and will continue to suffer a loss of earnings, and other employment benefits, whereby Plaintiff is entitled to general compensatory damages.

COUNT III – RETALIATION FOR WHISTLEBLOWING

34. The foregoing paragraphs are fully incorporated herein as though set forth at length.

35. Plaintiff was retaliated against due to the information he had uncovered about the actions of his immediate superior.
36. Defendant, through the actions of direct superiors terminated the Plaintiff for fear of the Plaintiff reporting violations.
37. Plaintiff was wrongfully terminated for reporting the violations.
38. Plaintiff has further suffered and will continue to suffer a loss of earnings, and other employment benefits, whereby Plaintiff is entitled to general compensatory damages.

COUNT IV - DEFAMATION

39. Plaintiff incorporates the preceding paragraphs above as though set forth at length herein.
40. As a result of Defendants self-serving, dissatisfaction with Plaintiff and his attempt to alert his superiors to corruption within their business, Defendants have provided a negative review of Plaintiff's work to other potential employers.
41. The aforesaid conduct of the Defendants have exposed Plaintiff to ridicule, embarrassment, contempt, and loss of esteem among a substantial, respectable group including, but not limited to, Plaintiff's existing and prospective future employers, and Plaintiff's co-workers, friends, neighbors, community and other third party relationships.
42. The aforesaid conduct of Defendants is slander per se and/or libel on its face.
43. As a direct and proximate result of the foregoing wrongful conduct of the Defendants, Plaintiff has suffered and continues to suffer damages including damage to his existing and prospective business relationships, and damage to his reputation and regard in the community at large.

44. The aforesaid wrongful conduct of Defendants was neither privileged nor otherwise defensible in any manner whatsoever.

45. As a result of the aforesaid vindictive, wrongful conduct of the Defendants, which conduct was wanton, malicious, willful, knowing and/or committed in reckless disregard for the truth, Plaintiff is entitled to recover punitive damages against the Defendants as a punishment for such outrageous conduct.

46. Despite demand therefor, Defendants failed and refused to retract any of the defamatory statements they made and/or other defamatory conduct in which they engaged.

WHEREFORE, Plaintiffs respectfully request this Honorable Court to enter a judgment in their favor and against Defendant in an amount in excess of \$75,000.00, plus statutory and punitive damages, along with whatever relief that this Court deems appropriate and proper, including equitable relief, and attorney's fees and costs.

Respectfully Submitted,

WEISBERG LAW

BY: /s/Matthew Weisberg
MATTHEW B. WEISBERG, ESQ.

DATED: 12-16-16

HOPKINS & SCHAFKOPF, LLC

BY: Gary Schafk
GARY SCHAFKOPF, ESQ.

DATED: 12-16-16